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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
)
Supplements and Settlements to Pending)
Closed Groups of Noncommercial)
Educational Broadcast Applications)
Due By June 4, 2001)

MM Docket No. 95-31

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Mass Media Bureau

STATEMENT IN SUPPORT OF MOTION FOR EXTENSION OF TIME

California State University at Sacramento, Lane Community College, Mohave Community College, and the University of Kansas ("Commenters"), by their attorneys, hereby submit this statement in support of the Motion for Extension of Time filed on May 11, 2001, by Station Resource Group, Educational Media Foundation, National Public Radio, CSN International, the National Federation of Community Broadcasters, Positive Alternative Radio, Inc., and Calvary Chapel of Twin Falls, Inc. ("Petitioners").

Each of the Commenters is an applicant for a construction permit for a new noncommercial radio station and is part of a "closed group" of mutually exclusive applicants.

Petitioners request a 45-day extension of the June 4, 2001, settlement and application supplement deadline for the "closed groups" of mutually exclusive applicants for construction permits for noncommercial stations. *See Re-examination of the Comparative Standards for Noncommercial Educational Applicants* (Memorandum Opinion and Order), MM Docket No. 95-31, FCC 01-64 (released February 28, 2001) ("MO&O"); Public Notice, DA 01-729 (released March 22, 2001). Petitioners also request that during the 45-day extension the Commission continue to waive the requirements of Section 73.3525(a)(3) of the Rules to permit monetary settlements that exceed an applicant's reasonable and prudent expenses. Petitioners further

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propose that June 4, 2001, remain as the date for fixing applicants' qualifications for points under Section 73.7003 of the Rules.

The Commenters' experiences in preparing their application supplements and attempting to reach settlements provide additional support demonstrating that good cause exists to grant Petitioners' extension request. Like Petitioners, Commenters have encountered various difficulties in seeking to settle multiple proceedings, including issues not directly addressed in the Commission's Report and Order¹ or *MO&O*. See Motion at 3. In addition, many of the persons involved in negotiating settlements are officials of educational institutions who are unfamiliar with the FCC's settlement process and have numerous other official duties which limit their time and ability to negotiate potential settlements in multi-party proceedings. Further, the time devoted to trying to reach a settlement is time that is not available for preparing the application supplement. As described below, for many noncommercial applicants the time required to prepare the application supplement is far more than anyone anticipated.

Several of the comparative criteria under the new point system, and particularly the supporting documentation requirement under the established local applicant and diversity of ownership criteria, concern fundamental organizational characteristics of state-chartered or created educational institutions including universities, colleges and community colleges. For example, each of the Commenters is a state-chartered educational institution. Although their structures differ, each was created under a state statute which governs the school's operations and establishes some type of administrative hierarchy, frequently involving a state or local board of regents, board of education or similar body. The Commission recognized the difficulty that state-chartered institutions may have in amending their organizational documents to qualify for

¹ *Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386 (2000).

credit under the diversity of ownership criterion.² The Commission stated that it would consider “alternative safeguards” from such entities whose governing documents cannot be amended without legislative action. *MO&O* at 58.

Commenters have discovered that the issues involved in determining what would constitute appropriate “alternative safeguards” in the context of a unique statutory structure, and preparing such documentation, is complicated. Some states have elected boards. Others have boards appointed by the governor. Some are state boards, some are local. The relationship between a board of regents or board of education, on the one hand, and an individual school, on the other hand, raises issues concerning the type of safeguard, if any, which is required or appropriate. These are highly fact-specific inquiries which also involve state law issues not previously addressed.³

State or local boards frequently meet only once per month, limiting their opportunity to consider actions necessary to adopt measures implementing alternative safeguards. In addition, to the extent a board has an attributable interest in a school’s stations, the school must survey all the board members to determine whether they have any attributable interests relevant under the diversity criterion and the tie-breakers.

Finally, difficulties arise if a state board is attributed with an interest in one school’s application as well as broadcast stations which other schools within the state-system operate. To determine the applicant school’s eligibility under the diversity of ownership and state-wide network criterion, and the number of attributable existing stations and pending applications

² Although not specifically referenced in the Commission’s discussion in the *MO&O*, the same issues concerning the governing document requirement under the diversity of ownership criterion also apply to the established local applicant criterion.

³ The applicability of the Commission’s ownership attribution rules under the noncommercial comparative criteria is not an issue that state schools and state or local boards have previously had to address.

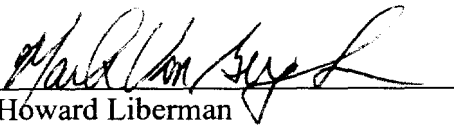
under the two tie-breakers, factual inquiries are required to determine the other schools within a state-wide system that have stations and how those stations fit within each school's curriculum. This is a time consuming inquiry which many schools may not be able to complete prior to June 4.

No doubt other parties have encountered problems and difficulties unique to their individual circumstances. The point system and new comparative criteria represent uncharted territory for the Commission and the noncommercial applicants in the closed application groups. Good cause exists to grant these applicants an additional 45 days in which to prepare their application supplements or to enter universal settlements.

For the foregoing reasons, Commenters urge that the Commission grant the Petitioners' Motion to extend the date for filing application supplements and settlements.

Respectfully submitted,

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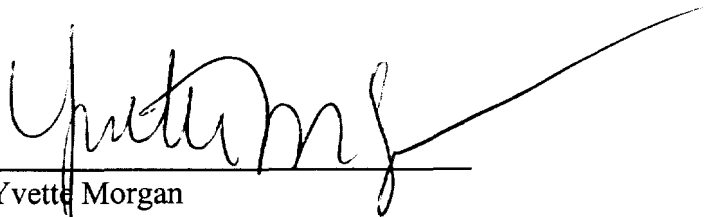
May 14, 2001

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CERTIFICATE OF SERVICE

I, Yvette Morgan, hereby certify that the foregoing "Statement in Support of Motion for Extension of Time" was served this 14th day of May, 2001, by depositing a true copy thereof with the United States Postal Service, first class postage prepaid, addressed to:

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